



United States  
Department of  
Agriculture

Farmers  
Home  
Administration

Washington  
D.C.  
20250

FmHA AN No. 3148 (1910-A)

April 10, 1995

TO: Acting State Directors  
Rural Economic and Community Development  
District Directors and County Supervisors

ATTN: Farmer Programs Chiefs

SUBJECT: Issues Arising From the Redelelegation of Duties Formerly Performed  
by the County Committee

**PURPOSE/INTENDED OUTCOME:**

The purpose of this Administrative Notice (AN) is to provide guidance on making eligibility determinations and address certain other application issues.

**COMPARISON WITH A PREVIOUS AN:**

There is no previous AN on this subject.

**IMPLEMENTATION RESPONSIBILITIES:**

The Department of Agriculture Reorganization Act of 1994, Title II of Pub. L. 103-354, dated October 13, 1994, repealed section 332 of the Consolidated Farm and Rural Development Act (CONACT), which established the County Committees. State Directors were asked to redelegate the authority to make eligibility determinations which were formerly made by the FmHA County Committee to state, district and county officials.

Also repealed was paragraph (2) of section 333 of the CONACT, which contained the eligibility criteria relating to (1) the applicant's character, industry and ability to carry out the proposed operation, and (2) the applicant's honesty in endeavoring to carry out obligations associated with the loan. Therefore, these former requirements will no longer be considered when determining direct and guaranteed loan eligibility. Section 333(2)(A)(iii) contained the provision that the County Committee certification of eligibility would be effective for five years. This provision was also repealed.

The following are commonly asked questions:

**1. Do we still need to obtain credit reports?**

Yes, credit reports will be obtained in accordance with FmHA Instruction 1910-B, section 1910.53.

EXPIRATION DATE: April 30, 1996

FILING INSTRUCTIONS:  
Preceding FmHA  
Instruction 1910-A



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**2. How do we document eligibility?**

Officials who have been redelegated authority by the Acting State Directors will document eligibility on Form FmHA 440-2, "County Committee Certification or Recommendation." There are changes that will have to be made to this form. One is that the second sentence of the item entitled "Eligibility Certification" will have to be deleted. The last sentence of the form should also be deleted. The loan official will sign Form FmHA 440-2, on the line formerly designated for the chairperson. The words "County Committee" and "Chairperson" should be struck and the loan official's title should be inserted. The loan official should make a reference to the Delegation of Authority letter at the end of the form. The signature lines for the other members of the County Committee should be deleted.

**3. Must the Redelegation of Authority be prepared for each individual or can it be delegated by position?**

The Redelegation of Authority can be by position.

**4. Are eligibility decisions restricted by loan approval limits?**

No. Any official with redelegated authority may make the eligibility determination.

**5. Can the loan official certify eligibility for 5 years?**

No, the provision regarding a County Committee certification of eligibility lasting five years was repealed; however, such certifications issued by County Committees prior to October 13, 1994, will remain valid for the period of eligibility noted on Form FmHA 440-2.

**6. What is the effective date of the Redelegation of Authority?**

The Redelegation of Authority is effective when it is signed by the Acting State Director.

**7. Since the law repealed eligibility criteria relating to an applicant's character, are we prohibited from rejecting applications based on poor credit?**

FmHA Instruction 1910-A, section 1910.5, "Evaluating applications," lists credit history and creditworthiness in paragraphs (b) and (c) respectively, as criteria that should be considered in addition to the eligibility criteria in applicable program regulations.

Therefore, it is possible to reject an application based on poor credit, following section 1910.5. Section 1910.5(c)(1) through (5) specifies items that will not indicate an unacceptable credit history. Even so, section 1910.5 (c)(5) does state, in part, "However, non-payment of a debt due to circumstances within an applicant/borrower's control may be used as an indication of unacceptable credit history, in accordance with paragraph (c)(1) of this section."

**3. How do we handle County Committee decisions made after October 13, 1994, where the County Committee rejected the applicant under the character and honesty criteria that have been eliminated?**

If the only reason for rejecting the application is because of the applicant's character, industry and ability to carry out the proposed operation, and/or that the applicant will honestly endeavor to carry out the applicant's undertakings and obligations, then the approval official will review the application again and determine the applicant eligible. However, if creditworthiness is part of the rejection, the loan official will consider creditworthiness following section 1910.5.

**9. What about rejections based on character and honesty made prior to October 13, 1994, that are in the appeal process?**

A memorandum from the National Appeals Division to its field offices, dated November 18, 1994, states, "The elimination of the eligibility requirement should be applied to any appeal you have under consideration, i.e., these reasons for denial are voided through the enactment of the legislation. Keep in mind that other eligibility issues, (such as family-size farm, experience etc.) are still in effect as well as credit history requirements of 1910.5."

Therefore, it makes no difference whether the County Committee made the decision before or after October 13, 1994. If the decision is reversed by appeal and creditworthiness is a factor, do not request a set-aside of the decision. Instead, the loan official will consider creditworthiness following FmHA Instruction 1910-A, section 1910.5, and if appropriate, reject the application and provide the applicant with appeal rights.

**10. What use is Form FmHA 2054-7, "Record of County/Area Committee Minutes"?**

Since the Committee no longer exists, the form is no longer needed. However, eligibility data in the Management Record System (MRS) and servicing information in AgCredit must be maintained.

**11. What about County Committee actions for servicing?**

Determinations formerly performed by the FmHA County Committee for loan servicing actions must now be determined by Agency officials that have been delegated this authority. This determination must be made for such servicing actions as the release of liability, debt settlement, subordinations in connection with the purchase of additional land, debt settlement cases for Farmer Programs loans when the borrower will continue with the Rural Housing loan, classification of inventory farm property as suitable or surplus, and the priority order for selling suitable inventory farms, including random selection. All recommendations, approvals or rejections of servicing actions must continue to be properly documented.

**12. Can applicants who deliberately provide false information or omit pertinent information during the loan process be determined ineligible under FmHA Instruction 1910-A, section 1910.5(c)?**

Yes, applicants who deliberately provide false information or omit pertinent information can be considered ineligible under the broad scope of creditworthiness, FmHA Instruction 1910-A, section 1910.5(c).

This AN may not be revised and reissued by State Directors without prior approval by the Deputy Administrator, Farm Credit Programs, unless modification is necessary to comply with state law.

For questions pertaining to this AN, contact Kathleen Miller, Loan Making Division, at (202) 720-1643.



Lou Anne Kling  
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Consolidated Farm Service Agency